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2004772

ENVIRONMENTAL PROTECTION AGENCY

REGION III

1650 Arch Street

Philadelphia, Pennsylvania 19103-2029

ORIGINAL
(Red)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

NOV 25 2003

The Budd Company
Richard O. Lemke, Assistant General Counsel
3155 W. Big Beaver Road, P.O. Box 2601
Troy, MI 48007-2601

**Re: Follow-up 104(e) Request - Budd Company
Lower Darby Creek Area Superfund Site
Delaware and Philadelphia Counties, Pennsylvania**

Dear Mr. Lemke:

The U.S. Environmental Protection Agency ("EPA") has received the response of The Budd Company ("Budd") to its November 1, 2001 Information Request. Based on that response and information obtained by EPA as part of its investigation, EPA is seeking additional information concerning the waste disposal activities of Budd in Philadelphia between 1958 and 1976.

EPA has reviewed your previous information request response dated February 13, 2002 and has determined that additional information and clarification is needed in order to complete its investigation. EPA hereby requests that Budd respond completely and timely to the information requested in Enclosure F to this letter.

Pursuant to the authority of Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9604(e), Budd is required to furnish all information and documents in its possession, custody or control, or in the possession, custody or control of any of its employees or agents which concern, refer, or relate to hazardous substances as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), pollutants and/or contaminants as defined by Section 101(33), 42 U.S.C. § 9601(33), which were transported to, stored, treated, or disposed of at the above referenced facility.

Section 104 of CERCLA, 42 U.S.C. § 9604, authorizes EPA to pursue penalties for failure to comply with that section or for failure to respond adequately to required submissions of information. In addition, providing false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001. The information you provide may be used by EPA in administrative, civil, or criminal proceedings.



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(2)

You must respond in writing to this required submission of information within **thirty (30) calendar days** of your receipt of this letter. The response must be signed by an authorized official of Budd. If, for any reason, you do not provide all information responsive to this letter, in your answer to EPA you must: (1) describe specifically what was not provided, (2) supply to EPA a clear identification of the document(s) not provided, and (3) provide to EPA an appropriate reason why the document(s) was not provided.

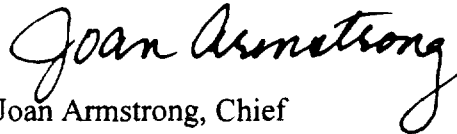
All documents and information should be sent to:

Carlyn Winter Prisk (3HS11)
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103

This required submission of information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. Section 3501, et seq.

If you have any question concerning this matter, please contact Carlyn Winter Prisk at (215) 814-2625 or you may have your attorney contact Brian Nishitani, Senior Assistant Regional Counsel, at (215) 814-2675.

Sincerely,

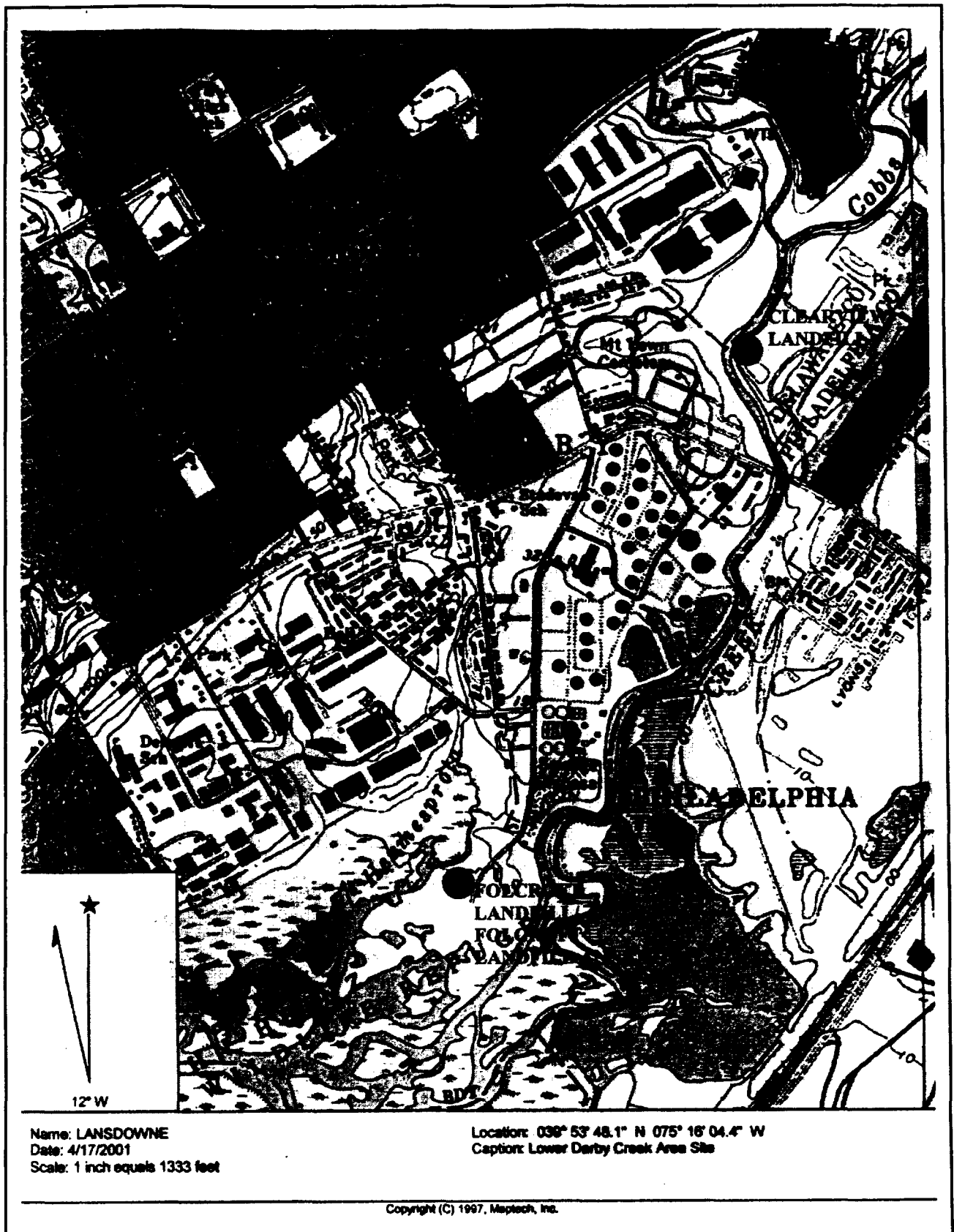


Joan Armstrong, Chief
PRP Investigation and
Site Information Section

Enclosures: Enclosure A: Lower Darby Creek Area Site Map
 Enclosure B: List of Contractors that May Review Your Response
 Enclosure C: Business Confidentiality Claims/Disclosure of Your Response to
 EPA Contractors and Grantees
 Enclosure D: Definitions
 Enclosure E: Instructions
 Enclosure F: Information Requested

cc: Brian Nishitani , Esq. (3RC44)
 Carlyn Prisk (3HS11)
 April Flipse (PADEP)
 Craig Olewiler (PADEP)

Enclosure A



List of Contractors That May Review Your Response

- Daston Corporation -
Contract #68-S3-01-01
Subcontractor to Daston Corporation is:
Dynamac Corporation
Tri State Enterprise Incorporated
 - Tetra Tech EM, Inc. -
Contract #68-S3-0002
Subcontractor to Tetra Tech EM, Inc. is:
Eagle Instruments, Inc.
 - Ecology and Environment, Inc. -
Contract #68-S3-0001
Subcontractor to Ecology and
Environment, Inc. is:
S & S Engineers, Inc.
 - IT Corporation - Contract #68-S3-00-06
Subcontracts to IT Corporation are:
Weavertown Environmental Group
Environmental Restoration Company
 - Earth Tech, Inc. - Contract #68-S3-00-07
Subcontractors to Earth Tech, Inc. are:
Industrial Marine Services, Inc.
Cline Oil
Hertz Equipment Rental
 - Tetra Tech NUS Inc. -
Contract #68-S6-3003
Subcontractors to Tetra Tech NUS Inc.
are:
Gannett Fleming, Inc.
Dynamic Corporation
C. C. Johnson & Malhotra, P.C.
 - CDM-Federal Programs Corporation -
Contract #68-S7-3003
Subcontractors to CDM-Federal
Programs Corporation are:
Tetra Tech EM, Inc.
Robert Kimball & Associates
PMA & Associates
Horne Engineering
Pacific Environmental Services
 - Black and Veatch Waste Science and
Technology Corporation/Tetra Tech,
Inc. - Contract #68-S7-3002
Subcontractor:
Enviro Consultants Group
 - Universe Technologies -
Contract #68-S3-99-02
 - Tech Law, Inc. -
Contract #68-W-00-108
 - WRS Infrastructure & Environment,
Inc. - Contract # 68-S3-03-02
 - Kemron Environmental Services
Contract # 68-S3-03-05
 - Industrial Marine Services, Inc.
Contract # 68-S3-03-03
 - Guardian Environmental Services, Inc.
68-S3-03-04
- List of Inter-Agency Agreements
- General Services Administration
CERCLA File Room
Contractor: Booz-Allen & Hamilton
 - General Services Administration
Spectron Superfund Site
Contractor: Booz-Allen & Hamilton
 - General Services Administration
Breslube Penn Superfund Site
Contractor: Booz-Allen & Hamilton
- List of Cooperative Agreements
- National Association of Hispanic
Elderly - #CQ-822511
 - AARP Foundation (Senior
Environmental Employment) -
#824021
#823952

Enclosure C

Business Confidentiality Claims

You are entitled to assert a claim of business confidentiality covering any part or all of the submitted information, in the manner described in 40 C.F.R. § 2.203(b). Information subject to a claim of business confidentiality will be made available to the public only in accordance with the procedures set forth in 40 C.F.R. Part 2, Subpart B. If a claim of business confidentiality is not asserted when the information is submitted to EPA, EPA may make this information available to the public without further notice to you.

Disclosure of Your Response to EPA Contractors and Grantees

EPA may contract with one or more independent contracting firms (see Enclosure A) to review the documentation, including documents which you claim are confidential business information ("CBI"), which you submit in response to this information request, depending on available agency resources. Additionally, EPA may provide access to this information to (an) individual(s) working under (a) cooperative agreement(s) under the Senior Environmental Employment Program (SEE Enrollees). The SEE program was authorized by the Environmental Programs Assistance Act of 1984 (Pub. L. 98-313). The contractor(s) and/or SEE Enrollee(s) will be filing, organizing, analyzing and/or summarizing the information for agency personnel. The contractors have signed a contract with EPA that contains a confidentiality clause with respect to CBI that they handle for EPA. The SEE Enrollee(s) is working under a cooperative agreement that contains a provision concerning the treatment and safeguarding of CBI. The individual SEE enrollee has also signed a confidentiality agreement regarding treatment of CBI. Pursuant to CERCLA, 42 U.S.C. § 9604(e)(7) and EPA's regulations at 40 C.F.R. § 2.310(h), EPA may share such CBI with EPA's authorized representatives which include contractors and cooperators under the Environmental Programs Assistance Act of 1984. (See 58 Fed.Reg. 7187 (1993)). If you have any objection to disclosure by EPA of documents which you claim are CBI to any or all of the entities listed in the attachment, you must notify EPA in writing at the time you submit such documents.

Enclosure C

Definitions

- The term "**arrangement**" shall mean every separate contract or other agreement or understanding between two or more persons, whether written or oral.
- The term "**documents**" shall mean writings, photographs, sound or magnetic records, drawings, or other similar things by which information has been preserved and also includes information preserved in a form which must be translated or deciphered by machine in order to be intelligible to humans. Examples of documents include, but are not limited to, electronic mail and other forms of computer communication, drafts, correspondence, memoranda, notes, diaries, statistics, letters, telegrams, minutes, contracts, reports, studies, checks, statements, receipts, summaries, pamphlets, books, invoices, checks, bills of lading, weight receipts, toll receipts, offers, contracts, agreements, deeds, leases, manifests, licenses, permits, bids, proposals, policies of insurance, logs, inter-office and intra-office communications, notations of any conversations (including, without limitation, telephone calls, meetings, and other communications such as e-mail), bulletins, printed matter, computer printouts, invoices, worksheets, graphic or oral records or representations of any kind (including, without limitation, charts, graphs, microfiche, microfilm, videotapes, recordings and motion pictures), electronic, mechanical, magnetic or electric records or representations of any kind (including, without limitation, tapes, cassettes, discs, recordings and computer memories), minutes of meetings, memoranda, notes, calendar or daily entries, agendas, notices, announcements, maps, manuals, brochures, reports of scientific study or investigation, schedules, price lists, data, sample analyses, and laboratory reports.
- The term "**hazardous substance**" means (a) any substance designated pursuant to section 1321(b)(2)(A) of Title 33 [of the U.S. Code], (b) any element, compound, mixture, solution, or substance designated pursuant to section 9602 of [CERCLA], (c) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (42 U.S.C. Section 6921) (but not including any waste the regulation of which under the Solid Waste Disposal Act (42 U.S.C. Section 6901 et seq.) has been suspended by Act of Congress), (d) any toxic pollutant listed under section 1317(a) of Title 33, (e) any hazardous air pollutant listed under section 112 of the Clean Air Act (42 U.S.C. Section 7412), and (f) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 2606 of Title 15 [of the U.S. Code]. The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (a) through (f) of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).
- The term "**pollutant or contaminant**" shall include, but not be limited to, any element, substance, compound, or mixture, including disease-causing agents, which after release

into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations in such organisms or their offspring, except that the term "pollutant or contaminant" shall not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under CERCLA, and shall not include natural gas, liquefied natural gas, or synthetic gas of pipeline quality (or mixtures of natural gas and such synthetic gas).

- The term "release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant), but excludes (a) any release which results in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer of such persons, (b) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine, (c) release of source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954 (42 U.S.C. Section 2011 et seq.), if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under section 170 of such Act (42 U.S.C. Section 2210), or, for the purposes of section 9604 of [CERCLA] or any other response action, any release of source byproduct, or special nuclear material from any processing site designated under sections 7912(a)(1) or 7942(a) of [CERCLA], and (d) the normal application of fertilizer.
- The term "waste" or "wastes" shall mean and include any discarded materials including, but not limited to, trash, garbage, refuse, by-products, solid waste, hazardous waste, hazardous substances, pollutants or contaminants, and discarded or spilled chemicals, whether solid, liquid, or sludge:
- The term "you" when referring to an incorporated entity shall mean and include the incorporated entity and its agents and representatives, including, but not limited to, persons directly authorized to transact business on the entity's behalf such as officers, directors, or partners with which the entity is affiliated, employees, accountants, engineers, or other persons who conduct business on the entity's behalf, as well as affiliated entities, including, but not limited to, partnerships, limited liability companies, divisions, subsidiaries, and holding companies.

Enclosure E

Instructions

1. You are entitled to assert a claim of business confidentiality covering any part or all of the information you submit. If you desire to assert a claim of business confidentiality, please see Enclosure C, *Business Confidentiality Claims/Disclosure of Your Response to EPA Contractors and Grantees*. You must clearly mark such information by either stamping or using any other form of notice that such information is a trade secret, proprietary, or company confidential. To ensure to the greatest extent that your intent is clear, we recommend that you mark as confidential each page containing such claimed information.
2. Please provide a separate, detailed narrative response to each question, and to each subpart of each question, set forth in this Information Request. If you fail to provide a detailed response, EPA may deem your response to be insufficient and thus a failure to comply with this Information Request, which may subject you to penalties.
3. Precede each response with the number of the question or subpart of the question to which it corresponds. For each document or group of documents produced in response to this Information Request, indicate the number of the specific question or subpart of the question to which the document(s) responds.
4. Should you find at any time after submission of your response that any portion of the submitted information is false, misrepresents the truth or is incomplete, you must notify EPA of this fact and provide EPA with a corrected written response.
5. Any terms that are used in this Information Request and/or its Enclosures that are defined in CERCLA shall have the meaning set forth in CERCLA. Definitions of several such terms are set forth in Enclosure D, *Definitions*, for your convenience. Also, several additional terms not defined in CERCLA are defined in Enclosure D. Those terms shall have the meaning set forth in Enclosure D any time such terms are used in this Information Request and/or its Enclosures.

Enclosure F

Information Requested

1. In Budd's response to EPA's November 1, 2001 Information Request, it indicated as a general response that Budd's previous submittals in reference to the following matters were incorporated by reference:
 - a. July 29, 1993 letter to Lorraine Frigerio (USEPA Region II) relating to the Bridgeport Rental & Oil Services Superfund Site;
 - b. May 1, 1994 to Joan E. Martin-Banks (USEPA Region III) relating to the Boarhead Farms Superfund Site; and
 - c. January 20, 1998 letter from Transit America, Inc. (successor operator at the Red Lion Plant) to Suzanne Becker (USEPA Region II) relating to the Central Steel Drum Superfund Site.


The above referenced documents are neither summarized in your February 13, 2002 response nor attached to it. Please attach all such documents and information referenced above to Budd's response to this supplemental Information Request.

2. In Budd's February 13, 2002 response to EPA's Information Request, Budd further references, but fails to attach the following documents:
 - a. Budd's response to EPA's Information Request regarding the Douglasville (a/k/a Berks Associates Reclamation Resources) Site;
 - b. Documents previously produced to US EPA in the U.S. v. Wade litigation; and,
 - c. Documents which were previously produced by Budd to US EPA in connection with the Enterprise Avenue Site;

Please attach the above referenced documents and information referenced above to Budd's response to this supplemental Information Request.

3. In Budd's February 13, 2002 response, Budd indicated that it was attempting to identify the employees whose names appear on the Tri-County Hauling tickets provided to Budd by EPA. Please identify and provide the name, address, telephone phone number and job title of all employees whose names appear on the Tri-County tickets. Indicate for each employee whether or not they have been contacted/interviewed by Budd regarding the Site, and if so, attach a copy of each interview summary.

4. EPA's continued investigation of the Site has disclosed that Budd also contracted with Schiavo Brothers, Inc. for the removal or transport of material from both the Red Lion Plant and Philadelphia Plant between 1970 and 1974 (copies of relevant documents attached). This material was disposed of at the Folcroft Landfill. For each such transaction, please identify:
 - a. The person with whom you/it made such a contract or arrangement;
 - b. The date(s) on which or time period during which such material was removed or transported for disposal;
 - c. The nature of such material, including the chemical content, characteristics, and physical state (i.e., liquid, solid, or gas);
 - d. The annual quantity (number of loads, gallons, drums) of such material;
 - e. The manner in which such material was containerized for shipment or disposal;
 - f. The location to which such material was transported for disposal;
 - g. The person(s) who selected the location to which such material was transported for disposal;
 - h. The individuals employed with any transporter identified (including truck drivers, dispatchers, managers, etc.) with whom Budd dealt concerning removal or transportation of such material; and
 - i. Any billing information and documents (invoices, trip tickets, manifests, etc.) in Budd's possession regarding arrangements made to remove or transport such material.
5. EPA's continued investigation of the Site has resulted in the identification of a witness who hauled waste from Budd's Philadelphia plant and disposed of it at the Folcroft Landfill (attached). In regards to that transaction, please identify:
 - a. The person with whom you/it made such a contract or arrangement;
 - b. The date(s) on which or time period during which such material was removed or transported for disposal;
 - c. The nature of such material, including the chemical content, characteristics, and physical state (i.e., liquid, solid, or gas);
 - d. The annual quantity (number of loads, gallons, drums) of such material;

- 
- e. The manner in which such material was containerized for shipment or disposal;
 - f. The location to which such material was transported for disposal;
 - g. The person(s) who selected the location to which such material was transported for disposal;
 - h. The individuals employed with any transporter identified (including truck drivers, dispatchers, managers, etc.) with whom Budd dealt concerning removal or transportation of such material; and
 - i. Any billing information and documents (invoices, trip tickets, manifests, etc.) in Budd's possession regarding arrangements made to remove or transport such material.
6. Please indicate whether each of the following current and former employees was interviewed/contact by Budd in preparation of its February 13, 2003 response or in preparation of Budd's response to this supplemental Information Request. If so, please attach a copy of each interview statement .
- a. John Sarnese;
 - b. Craig Buchsceidt;
 - c. Daniel Barnes;
 - d. Walter Russell;
 - e. Richard Tarone;
 - f. John Pouch;
 - g. Gary Greeno;
 - h. John Wirth; and,
 - i. Walter Chapla.
7. If any of the documents solicited in this request are no longer available, please indicate the reason why they are no longer available. If the records were destroyed, provide us with the following:
- a. Budd's document retention policy;
 - b. A description of how the records were destroyed (burned, archived, trashed, etc.) and the approximate date of destruction;
 - c. A description of the type of information that would have been contained in the documents; and,

- d. The name, job title and most current address known to you of the persons who would have produced these documents; the persons who would have been responsible for the retention of these documents; and the person who would have been responsible for the destruction of these documents.

The Budd Company

470 230

received

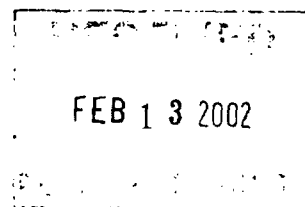


ThyssenKrupp

February 13, 2002

For Hand Delivery

Carlyn Winter Prisk (3HS11)
United States Environmental Protection Agency – Region III
1650 Arch Street
Philadelphia, PA 19103-2029



Re: Section 104(e) Submission
The Budd Company
Lower Darby Creek Area Superfund Site

Dear Ms. Winter Prisk:

This letter is submitted in response to the information inquiry letter (the "Section 104(e) Letter") sent to The Budd Company ("Budd" or the "Company") eliciting information concerning the Lower Darby Creek Superfund Site (the "Site"). This response is subject to the following general and specific objections:

I. General and Specific Objections

1. Although the Company appreciates the extensions of time granted by the United States Environmental Protection Agency ("USEPA"), the time period within which the Section 104(e) Letter demands a response is too short and, as such, arbitrary, capricious and unreasonable as a matter of law. The information elicited relates to events that may be over forty years old, and to persons who have long since left the Company's employ or who may have passed away. It is possible, particularly given the long history of the Site and the Company's operations in Pennsylvania, that information responsive to the Section 104(e) Letter will not be discovered or discerned until after the date of this response. Accordingly, the Company reserves the right to supplement this response.

2. The Company objects to the Section 104(e) Letter to the extent that it seeks to compel the disclosure or production of information beyond that which USEPA is authorized to obtain pursuant to the statutory authorities cited therein. The Company further objects to the definitions and instructions, to the extent they go beyond the definitions provided in the statutory authorities that purport to authorize the Section 104(e) Letter.

3. The Company objects to the Section 104(e) Letter to the extent that it seeks to compel the disclosure or production of information or documents subject to a claim of privilege, including, without limitation, a claim of attorney client-privilege, accountant-client privilege or attorney work product. *No information or documents to which such a claim applies are being disclosed or produced with this response.*

4. The Company objects to the Section 104(e) Letter to the extent that it is vague, ambiguous, or unduly burdensome, and to the extent that it seeks the production of information or documents not relevant to hazardous substance disposal or management at the Site or not reasonably calculated to lead to the discovery of information or documents relevant to hazardous substance disposal or management at the Site.

5. The Company objects to the Section 104(e) Letter to the extent that it purports to impose a continuing or endless obligation on the Company to investigate the matters under inquiry or supplement this response. The Company disavows any such obligation as unreasonable as a matter of law and beyond USEPA's statutory authority cited in the Section 104(e) Letter.

6. The Company objects to the loose and undefined references throughout the Section 104(e) Letter to "the Site", the "properties", "Philadelphia area", the "Landfill" etc., insofar as those terms are undefined and no map or surveyed drawing is provided to identify and described those areas with certainty.

7. The Company objects to the Section 104(e) Letter to the extent it seeks to impose any affirmative obligation on the Company to conduct investigations outside of its current corporate offices or employees, or to develop or present information in any particular form or format not maintained by the Company in the ordinary course of its business. The Company further objects to the Section 104(e) Letter to the extent that it seeks to compel the Company to gather or produce information or documents not currently in the Company's care, custody and control.

II. Non-admission/Reservation of Rights.

Nothing in this response is intended, nor shall it be construed as, an admission of liability or fault in connection with the presence of hazardous substances on or about the Site, any environmental condition on or about the Site, or any release or threatened release of any hazardous or polluting substance on or about the Site. Moreover, nothing herein is intended, nor shall it be construed, as a release or waiver of any claims or causes of action the Company now has, or hereafter may have in connection with the Site or any person who may have owned or operated the Site, or who may have transported or arranged for the transportation or disposal of any hazardous substance to or other pollutant at the Site.

Additionally, the information provided herein is being provided under compulsion and the Company expressly reserves its rights, to the fullest extent permitted by law, to object to and oppose its use or production in any matter or proceeding.

III. Inclusion of Prior Submissions To USEPA.

In general response to the Section 104(e) Letter, the Company hereby incorporates by reference as if fully set forth its prior information and document submissions to USEPA in connection with the following matters, to the full extent information or documents contained therein are responsive to this Section 104(e) Letter:

- July 29, 1993 Letter to Lorraine Frigerio (USEPA Region II) relating to the Bridgeport Rental & Oil Services Superfund Site.
- May 1, 1994 Letter to Joan E. Martin-Banks (USEPA-Region III) relating to the Boarhead Farms Superfund Site.
- January 20, 1998 Letter from Transit America, Inc. (successor operator at the Red Lion Plant) to Suzanne Becker (USEPA-Region II) relating to the Central Steel Drum Superfund Site.

IV. Responses to Section 104(e) Letter.

1. The Budd Company
3155 W. Big Beaver Road
Troy, MI 48007-2601
248-643-3659

(a) Budd was incorporated in the State of Michigan in 1993.

(b) Budd was originally incorporated in the Commonwealth of Pennsylvania in 1912.

(c) Budd's indirect U.S. parent corporation is ThyssenKrupp USA, Inc., which is located at 3155 West Big Beaver Road, Troy, MI 48007-5084. Budd's current direct and indirect wholly-owned subsidiaries are Waupaca Foundry, Inc., Waupaca, WI; Milford Fabricating Company, Detroit, MI; Phillips & Temro Industries Inc., Eden Prairie, MN; Phillips & Temro Industries Ltd., Budcan Holdings, Inc., Kitchener Ontario, Greening Donald Co. Ltd., Orangeville, Ontario, Stahl Specialty Company, Kingsville, MO and Budd Canada Inc., Kitchener, Ontario. None of the Budd subsidiaries have had any dealings with the Site.

2. Currently, Budd has only one facility in Philadelphia, which is located at 2450 Hunting Park Avenue, Philadelphia, PA 19129 (the "Philadelphia Plant"). During the referenced period of 1958 through 1976, Budd also had a plant located at One Red Lion Road, Philadelphia, PA 19115 (the "Red Lion Plant"). The Philadelphia Plant makes steel stampings for use in motor vehicles and did so during the time period referenced in this inquiry. During the referenced time period, the Philadelphia Plant operations consisted of stamping steel parts on over 200 production presses and the assembly of steel body components, such as doors and lift gates for

automobile and truck manufacturers. Assembly operations were performed on mechanical and hydraulic presses, and clamping, piercing and welding fixtures that used hydraulic systems. Tool and Die operations during the referenced time period at the Philadelphia Plant between involved tool, die and fixture construction and try-out for the automotive industry. Between the late 1950's until its sale in 1968, Budd also operated its former Nuclear Systems Division, later called the Instruments Division, which was located on Roberts Road in Philadelphia. This division manufactured and sold industrial radiography machinery for the storage, fabrication and retailing of industrial isotopes. During the referenced time period, the Red Lion Plant housed part of Budd's Stamping and Frame Division (formerly "Automotive") whose operations involved the production of steel automotive chassis frames. The Railway Division (later called the "Transit Division") also operated at the Red Lion Plant, designing, manufacturing and assembling passenger railcars. In addition, the Red Lion Plant manufactured chassis for the automotive industry.

3. During the time period referenced, Budd employed thousands of people at its Red Lion and Philadelphia Plants. Today, Budd employs approximately 400 at the Philadelphia Plant – the Red Lion Plant operated as the Company's Railway Division, whose assets were spun-off to an affiliate entity in 1985 (Transit America, Inc.) which itself ceased manufacturing operations in approximately 1987. Many past or present employees of the Philadelphia Plant would be familiar with the automotive plant operations or various portions thereof. A Philadelphia Plant brochure (believed to be late 1970s) describing the operations is appended. See also the Company's response to USEPA's Section 104(e) letter related to the Bridgeport Rental & Oil Services Superfund Site. Richard Boles, currently Manufacturing Manager at the Philadelphia Plant has been employed at the Philadelphia Plant during the entire time period and is familiar with manufacturing operations. Regarding waste disposal, based on the Company's investigation to date, which involved interviewing individuals in the Purchasing, Environmental, Materials Handling and Maintenance Departments, there are no individuals currently employed who reported to have any detailed knowledge concerning waste disposal for the time period in question and none could identify any shipments of waste to the Site. Based on information and belief, some former employees who may have had knowledge are deceased. The following individuals may have some knowledge of waste disposal practices, although not all were contacted by the Company in the formulation of this response:

- (a) Daniel Barnes, former employee. Last known address: [REDACTED]. During some part of the 1970s, and possibly earlier, Mr. Barnes was a material handler who operated the "squeezer," a piece of equipment that loaded plant trash into containers provided by outside haulers. Although not interviewed with respect to this response; Mr. Barnes was familiar with types of trash loaded into containers, which included paper, cardboard, and lunchroom trash.
- (b) James McGovern, former employee in the Purchasing Department. Last known address: [REDACTED]. Mr. McGovern had some responsibilities for material disposals in the 1970s,

particularly with regard to waste oil. See Budd's Section 104(e) Response to USEPA (Region III) in connection with the Douglassville (a/k/a Berks Associate or reclamation resources) Site. Mr. McGovern, who was interviewed in connection with this response, reported that he had no knowledge of the Site and could not identify any shipments of waste produced by Budd as having been sent to the Site. As regards the waste haulers referenced in the Section 104(e) Letter, Mr. Barnes could only state that the name Tri-County "sounded familiar."

- (c) Moses Evans, former employee. Last known address: [REDACTED]. Mr. Evans was employed as a truck driver for Budd, beginning in 1969, and was interviewed by the Company in its preparation of this response. Mr. Evans was not familiar with the Site or the haulers identified in the Section 104(e) request and could not identify any shipments of waste produced by Budd as having been sent to the Site or commissioned to the named haulers. Prior to the mid-1970s Mr. Evans himself hauled Budd's trash to a City incinerator - first in Manayunk (commencing after the Budd incinerator was no longer used (perhaps the 1950s), and later to an incinerator on Pattison Avenue in South Philadelphia. Mr. Evans stated that each day he hauled two compacted truckloads of trash from the Philadelphia Plant to these City incinerators.
- (d) George Reistad, former employee. Last known address: [REDACTED]. Mr. Reistad's responsibilities at the Philadelphia Plant included Manager of Maintenance and Sanitation during part of the referenced time period. Mr. Reistad, who was interviewed in the Company's preparation of this response, stated that he was not knowledgeable concerning the location or disposition of waste generated by Budd, but was familiar with the processes by which wastes were generated. Mr. Reistad could not identify any shipments of waste produced by Budd as having been sent to the Site or commissioned to any of the referenced waste haulers.
- (e) John Sarnese, former employee and Sanitation General Supervisor. Last known address: [REDACTED] telephone unknown. Mr. Sarnese reported to Mr. Reistad in the Sanitation Department and by virtue of his position may have some knowledge responsive to the matters under inquiry in the Section 104(e) Letter.
- (f) Walter Russell, former employee. Last known address: [REDACTED]
- (g) Craig Buchscheidt, Materials Handler. Mr. Buchscheidt's last known address is [REDACTED]. Mr.

Buchscheidt may be familiar with waste materials that were removed from the Philadelphia Plant by Tri-County in later years.

- (h) Richard Tarone, former employee. Last known address: [REDACTED]
[REDACTED] Between the early 1960s and 1972, Mr. Tarone was Assistant Controller, where he was responsible for accounts payable. When interviewed many years ago in connection with the Cinnaminson, NJ Superfund site, Mr. Tarone recalled that Budd used Tri-County Hauling for some part of the 1970s, to haul plant trash from the Red Lion and Philadelphia Plants.
- (i) Eugene Baum, Sr., former employee. Last known address: [REDACTED]
[REDACTED] During part of the referenced time period, Mr. Baum was responsible for contracting with outside haulers for waste disposal. The Company attempted to contact Mr. Baum in connection with its preparation of this response. Mr. Baum reportedly has no knowledge of the Site or the haulers and could not therefore identify any shipments of waste produced by Budd as having been sent to the Site. Mr. Baum reportedly thought the name "Tri-County" sounded familiar.
- (j) John Pouch, former employee. Last known address: [REDACTED]
[REDACTED] Formerly employed as a Buyer in the Purchasing Department. Mr. Pouch may have knowledge concerning the contracting for waste disposal services.
- (k) Ken Siegfried, former employee. Last known address: [REDACTED]
[REDACTED] Mr. Siegfried was a Material Handler. Mr. Siegfried would have been involved in the loading of trash trucks in the late 1970s. Mr. Siegfried, who was contacted by the Company in its preparation of this response, recalled the name "Tri-County", which he believed hauled plant trash from the Philadelphia Plant in the late 1970s, approximately 5 times per week.
- (l) Gary Greeno, current employee. Mr. Greeno, who can be contacted through Budd's Office of General Counsel, may be knowledgeable concerning certain past disposal practices, based on past positions held with the Company during the referenced time period.
- (m) Sid Ricke, former employee in the Sanitation Department at the Philadelphia Plant. Now deceased.
- (n) John Wirth, former employee. Last known address: [REDACTED]
[REDACTED] Mr. Wirth worked at the Red Lion

Plant and his name appeared on certain Tri-County documents from the late 1970s time period.

- (o) Wallace Chapla, former employee. Mr. Chapla, who was employed for many years at the Red Lion Plant, may be knowledgeable regarding certain of the Company's waste management practices during the relevant time period.

At this time, the Company is without knowledge concerning the identity or knowledge of persons employed in the former Instruments Division (Roberts Road) insofar as waste generation and management is concerned. After reviewing Tri-County Trip Tickets recently produced to the Company in response to a Freedom of Information Act ("FOIA") request sent to USEPA regarding the Site, Budd is attempting to track down the identity and current whereabouts of possible employees whose names (as scrawled signatures) appear on the Tri-County Tickets.

4. Owner and operator information.

(a) Philadelphia Plant. Relevant here, the Philadelphia Plant has been operated by the Company since 1958 (to the present). Currently, a majority of the land is owned by Huntingside Properties, which directly or indirectly purchased the land and buildings from Budd in March 1978. Huntingside Properties is currently Budd's landlord at the Philadelphia Plant.

(b) Red Lion Plant. Relevant to this inquiry, Budd owned and operated the Red Lion Plant during the entire period between 1956 and 1976. In or about 1978, the property was sold to Redside Properties, Inc., which became Budd's landlord. In 1985 assets of the Railway Division operation were transferred to Transit America Inc., an affiliated entity to the Company. Transit America subsequently purchased the property from Redside Properties, Inc. and discontinued manufacturing at the Red Lion Plant in 1987. The site has since been redeveloped and sold to unrelated entities for non-industrial, recreational-uses.

5. Philadelphia Plant and Red Lion Plant. During the referenced time period, or part thereof, it is believed that the following types of documents would have been generated in connection with the handling, generation, storage, treatment, transportation, recycling, formulation or disposal of any hazardous substance or waste: bid documents and Purchase Orders with any third party haulers, Shippers (which permitted truckers to remove material from the premises and which would have contained a description of what the material hauled, waste discharge permits, product data or MSDS sheets for products used at the plant, procedures for waste handling, Vendors logs, various procedures for material handling.

- (a) Unknown.
- (b). No such documents.

(c) No such contracts or correspondence can be located for the time period in question.

6 & 7. Due to the lapse of time and the lack of retained records it is not possible to identify today with reasonable specificity each hazardous substance used, generated, purchased, stored or otherwise handled at Budd's Philadelphia area plants during the referenced time frame. However, based on its knowledge of its business activities and other anecdotal information gathered from other Section 104(e) letter responses or other environmental management activities, it is reasonable to assume that hazardous substances were included in paints, oils, solvents (TCE), recyclable materials, coal and incinerator ash and other types of plant wastes likely to have been generated during the relevant time frame. No specific documentary information is available at this time to identify which substances or in what quantities or concentrations they may have been present. It also is possible that demolition or renovation activities involved the management of asbestos-containing materials, and that used oils managed on the properties during this time frame included oils containing PCBs. In fact, in the late 1970s Budd developed a PCB management program to change-out/phase-out PCB-containing electrical and other equipment. With respect to the Nuclear Division, prior to 1968, Budd is aware generally that wastes included by-product material (Cobalt 60 and possibly other materials) generated and disposed pursuant to NRC license, but Budd has no documentation available today regarding those activities. Except as specifically acknowledged herein, Budd has uncovered no documents or information confirming the shipment of any hazardous substance-containing wastes to the Site.

8. With respect to the entities listed in Question 8, Budd has no information or documentation that any of its facilities in Philadelphia ever did business with these entities for the period 1958 through 1976. Based on investigation conducted in connection with the Cinnaminson Superfund litigation, Budd's Philadelphia Plant did contract with Tri-County for trash removal for a period of time believed to be in the 1970s, but has no records for any time prior to 1977, other than Tri-County Trip Tickets (which make no reference to the Site) recently produced to Budd under a FOIA request to USEPA. In addition, Budd had a facility in Bridgeport, Pennsylvania, outside of Philadelphia, which utilized ABM Disposal in the mid-1970s. Documents in connection with ABM Disposal, which did not identify where the waste was disposed (and which make no reference to the Site here), were previously produced to USEPA in *U.S. v. Wade* and in connection with the Enterprise Avenue Site. That response and production to USEPA is incorporated by reference. Except as specifically acknowledged herein, Budd has uncovered no documents or information confirming the shipment of any hazardous substance-containing wastes to the Site.

9-11, inclusive. Except as specifically acknowledged herein, Budd has uncovered no documents or information confirming the shipment of any hazardous substance-containing wastes to the Site.

12. See answer to request no. 3.

13. No.

14. Not applicable.

15. Richard O. Lemke, Esquire and Jennifer Berke, Esquire (now a former employee). See also Budd's response to No. 3, above.

16. Documents for the time period in question may have included purchase orders and product data sheets. These would have been destroyed in the normal administration of the Company's local record retention practices at the time.

Budd is willing to supplement this response to address any documents or information USEPA believes implicate the Company in the disposal, or arrangement for disposal of any hazardous substances at the Site. If you would be kind enough to forward that information or any documents you believe to be relevant to the issue of Budd's contributions to the Site to me (other than the partially legible 1975 Tri-County Trip Tickets produced in response to our earlier FOIA request which make no reference to the Site), we will promptly review them and supplement this response.

I thank you again for your time and cooperation.

Very truly yours,



Richard O. Lemke
Assistant General Counsel

Enclosures

cc: Brian Nishitani, Esquire [without enclosures]

395654



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

NOV 05 2001

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

The Budd Company
Building 4K
2450 Hunting Park Ave.
Philadelphia, PA 19129

Attention: Jennifer Berke, Assistant General Counsel

Re: Required Submission of Information
Lower Darby Creek Area Superfund Site - Clearview Landfill, Folcroft Landfill, and
Folcroft Landfill Annex

Dear Ms. Berke:

The U.S. Environmental Protection Agency ("EPA") is seeking information concerning the release, or threat of release, of hazardous substances, pollutants or contaminants into the environment at the Clearview Landfill ("Clearview"), Folcroft Landfill ("Folcroft"), and Folcroft Landfill Annex ("Folcroft Annex") portions of the Lower Darby Creek Area Superfund site, located in Delaware and Philadelphia Counties, Pennsylvania (hereinafter the "Site").

The Site is located in an industrialized portion of southeastern Delaware County and southwestern Philadelphia County, Pennsylvania, along an approximately two-mile stretch of Darby Creek, between Cobbs Creek to the north and the tidal marsh of John Heinz National Wildlife Refuge at Tinicum to the south (see Enclosure A). The Site also includes contaminated portions of areas along Darby Creek downstream as well as a portion of a 3500-acre tidal marsh.

EPA has reason to believe that wastes generated at locations owned or operated by The Budd Company, may have been transported to and disposed of at the Site, specifically at Clearview, Folcroft, and Folcroft Annex. Clearview is located on the east side of Darby Creek; Folcroft and Folcroft Annex are located on the west side of the creek.

Pursuant to the authority of Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. Section 9604(e), EPA has the authority to require The Budd Company (hereinafter "you"), to furnish all information and documents in your possession, custody or control, or in the possession, custody or control of any of your employees or agents, which concern, refer, or relate to hazardous substances as defined by

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Section 101(14) of CERCLA, 42 U.S.C. Section 9601(14), pollutants and/or contaminants as defined by Section 101(33) of CERCLA, 42 U.S.C. Section 9601(33), which were transported to, stored, treated, or disposed of at the above-referenced Site.

Section 104 of CERCLA authorizes EPA to pursue penalties for failure to comply with that section or for failure to respond adequately to required submissions of information. In addition, providing false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. Section 1001. The information you provide may be used by EPA in administrative, civil, or criminal proceedings.

You must respond in writing to this required submission of information within **fifteen (15) calendar days** of your receipt of this letter. For a corporation, the response must be signed by an appropriately authorized corporate official. For all other entities, the response must be signed by an authorized official of that entity.

If, for any reason, you do not provide all information responsive to this letter, then in your answer to EPA you must: (1) describe specifically what was not provided, and (2) provide to EPA an appropriate reason why the information was not provided.

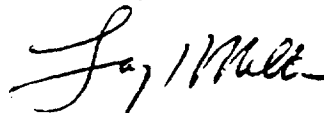
All documents and information should be sent to:

Ms. Carlyn Winter Prisk (3HS11)
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

This required submission of information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. Section 3501 et seq.

If you have any questions concerning this matter, please contact Civil Investigator Carlyn Winter Prisk at (215) 814-2625, or have your attorney contact Brian Nishitani of EPA's Office of Regional Counsel at (215) 814-2675. To discuss the Site in general or the nature of the cleanup, contact Kristine Matzko, the Remedial Project Manager, at (215) 814-5719.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry S. Miller".

Larry S. Miller
Chief, PRP Investigation and
Site Information Section

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Enclosures: Enclosure A: Lower Darby Creek Area Site Map
 Enclosure B: Business Confidentiality Claims/Disclosure of Your Response to
 EPA Contractors and Grantees
 Enclosure C: List of Contractors that May Review Your Response
 Enclosure D: Definitions
 Enclosure E: Instructions
 Enclosure F: Questions

cc: Mr. Brian Nishitani (3RC44) EPA Region III, Office of Regional Counsel
 Ms. Kristine Matzko (3HS21) EPA Region III, Remedial Project Manager
 Mr. Craig Olewiler, Pennsylvania Department of Environmental Protection
 Ms. April Flipse, Pennsylvania Department of Environmental Protection

Enclosure A

Lower Darby Creek Area Site Map

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Enclosure B

Business Confidentiality Claims

You are entitled to assert a claim of business confidentiality covering any part or all of the submitted information, in the manner described in 40 C.F.R. Part 2, Subpart B. Information subject to a claim of business confidentiality will be made available to the public only in accordance with the procedures set forth in 40 C.F.R. Part 2, Subpart B. If a claim of business confidentiality is not asserted when the information is submitted to EPA, EPA may make this information available to the public without further notice to you. You must clearly mark such claimed information by either stamping or using any other such form of notice that such information is a trade secret, proprietary, or company confidential. To best ensure that your intent is clear, we recommend that you mark as confidential each page containing such claimed information.

Disclosure of Your Response to EPA Contractors and Grantees

EPA may contract with one or more independent contracting firms (See "Enclosure C") to review the documentation, including documents which you claim are confidential business information ("CBI"), which you submit in response to this information request, depending on available agency resources. Additionally, EPA may provide access to this information to (an) individual(s) working under (a) cooperative agreement(s) under the Senior Environmental Employee Program ("SEE Enrollees"). The SEE Program was authorized by the Environmental Programs Assistance Act of 1984 (Pub. L. 98-313). The contractor(s) and/or SEE Enrollee(s) will be filing, organizing, analyzing and/or summarizing the information for EPA personnel. The contractors have signed a contract with EPA that contains a confidentiality clause with respect to CBI that they handle for EPA. The SEE Enrollee(s) is working under a cooperative agreement that contains a provision concerning the treatment and safeguarding of CBI. The individual SEE Enrollee has also signed a confidentiality agreement regarding treatment of CBI. Pursuant to Section 104(e)(7) of CERCLA, 42 U.S.C. Section 9604(e)(7) and EPA's regulations at 40 C.F.R. Section 2.310(h), EPA may share such CBI with EPA's authorized representatives which include contractors and cooperators under the Environmental Programs Assistance Act of 1984. (See 58 Fed.Reg. 7187 (1993)). If you have any objection to disclosure by EPA of documents which you claim are CBI to any or all of the entities listed in Enclosure C, you must notify EPA in writing at the time you submit such documents.

Enclosure C

List of Contractors that May Review Your Response

- Daston Corporation -
Contract #68-S3-01-01
Subcontractor to Daston Corporation is:
Dynamac Corporation
- Tetra Tech EM, Inc. -
Contract #68-S3-0002
Subcontractor to Tetra Tech EM, Inc. is
Eagle Instruments, Inc.
- Ecology and Environment, Inc. -
Contract #68-S3-001
Subcontractor to Ecology and
Environment, Inc. is:
S & S Engineers, Inc.
- Resource Applications, Inc. -
Contract #68-S3-003
Subcontracts to Resource Applications,
Inc. are:
C.C. Johnson & Malhotra, Inc.
Scientific & Environment Associates,
Inc.
Environmental Quality Management,
Inc.
- IT Corporation - Contract #68-S#-00-06
Subcontracts to IT Corporation are:
Weavertown Environmental Group
Environmental Restoration Company
- Earth Tech, Inc. - Contract #68-S3-00-07
Subcontractors to Earth Tech, Inc. are:
Industrial Marine Services, Inc.
Cline Oil
Hertz Equipment Rental
- Guardian Environmental Services, Inc.
Contract #68-S3-99-04
- ECG Industries, Inc. -
Contract #68-S3-99-05
Subcontractor to ECG Industries, Inc. is:
Earth Tech, Inc.
- Industrial Marine Services, Inc. -
Contract #68-S3-99-06
Subcontractors to Industrial Marine
Services, Inc. are:
Earth Tech, Inc.
Engineering and Environment, Inc.
- Tetra Tech NUS, Inc. -
Contract #68-S6-3003
Subcontractors to Tetra Tech NUS, Inc.
are:
Gannett Flemming, Inc.
Dynamac Corporation
C.C. Johnson & Malhotra, P.C.
- CDM-Federal Programs Corporation -
Contract #68-S7-3003
Subcontractors to CDM-Federal
Programs Corporation are:
Tetra Tech EM, Inc.
Robert Kimball & Associates
PMA & Associates
Home Engineering
Pacific Environmental Services
- Black and Veatch Waste Science and
Technology Corporation/Tetra Tech, Inc.
Contract #68-S7-3002
- Universe Technologies -
Contract #68-S3-99-02
- Tech Law, Inc. - Contract #68-W-00-108
Subcontractor to Tech Law, Inc. is:
Gannett Flemming, Inc.

List of Cooperative Agreements

- National Association of Hispanic Elderly
- #CQ-822511
- AARP Foundation (Senior
Environmental Employment)
- #824021, #823952

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Enclosure D

Definitions

- The term "**arrangement**" shall mean every separate contract or other agreement or understanding between two or more persons, whether written or oral.
- The term "**documents**" shall mean writings, photographs, sound or magnetic records, drawings, or other similar things by which information has been preserved and also includes information preserved in a form which must be translated or deciphered by machine in order to be intelligible to humans. Examples of documents include, but are not limited to, electronic mail and other forms of computer communication, drafts, correspondence, memoranda, notes, diaries, statistics, letters, telegrams, minutes, contracts, reports, studies, checks, statements, receipts, summaries, pamphlets, books, invoices, checks, bills of lading, weight receipts, toll receipts, offers, contracts, agreements, deeds, leases, manifests, licenses, permits, bids, proposals, policies of insurance, logs, inter-office and intra-office communications, notations of any conversations (including, without limitation, telephone calls, meetings, and other communications such as e-mail), bulletins, printed matter, computer printouts, invoices, worksheets, graphic or oral records or representations of any kind (including, without limitation, charts, graphs, microfiche, microfilm, videotapes, recordings and motion pictures), electronic, mechanical, magnetic or electric records or representations of any kind (including, without limitation, tapes, cassettes, discs, recordings and computer memories), minutes of meetings, memoranda, notes, calendar or daily entries, agendas, notices, announcements, maps, manuals, brochures, reports of scientific study or investigation, schedules, price lists, data, sample analyses, and laboratory reports.
- The term "**hazardous substance**" means (a) any substance designated pursuant to section 1321(b)(2)(A) of Title 33 [of the U.S. Code], (b) any element, compound, mixture, solution, or substance designated pursuant to section 9602 of [CERCLA], (c) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (42 U.S.C. Section 6921) (but not including any waste the regulation of which under the Solid Waste Disposal Act (42 U.S.C. Section 6901 et seq.) has been suspended by Act of Congress), (d) any toxic pollutant listed under section 1317(a) of Title 33, (e) any hazardous air pollutant listed under section 112 of the Clean Air Act (42 U.S.C. Section 7412), and (f) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 2606 of Title 15 [of the U.S. Code]. The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (a) through (f) of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).

- The term "pollutant or contaminant" shall include, but not be limited to, any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations in such organisms or their offspring, except that the term "pollutant or contaminant" shall not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under CERCLA, and shall not include natural gas, liquefied natural gas, or synthetic gas of pipeline quality (or mixtures of natural gas and such synthetic gas).
- The term "release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant), but excludes (a) any release which results in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer of such persons, (b) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine, (c) release of source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954 (42 U.S.C. Section 2011 et seq.), if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under section 170 of such Act (42 U.S.C. Section 2210), or, for the purposes of section 9604 of [CERCLA] or any other response action, any release of source byproduct, or special nuclear material from any processing site designated under sections 7912(a)(1) or 7942(a) of [CERCLA], and (d) the normal application of fertilizer.
- The term "waste" or "wastes" shall mean and include any discarded materials including, but not limited to, trash, garbage, refuse, by-products, solid waste, hazardous waste, hazardous substances, pollutants or contaminants, and discarded or spilled chemicals, whether solid, liquid, or sludge.
- The term "you" when referring to an incorporated entity shall mean and include the incorporated entity and its agents and representatives, including, but not limited to, persons directly authorized to transact business on the entity's behalf such as officers, directors, or partners with which the entity is affiliated, employees, accountants, engineers, or other persons who conduct business on the entity's behalf, as well as affiliated entities, including, but not limited to, partnerships, limited liability companies, divisions, subsidiaries, and holding companies.

Enclosure E

Instructions

1. You are entitled to assert a claim of business confidentiality covering any part or all of the information you submit. If you desire to assert a claim of business confidentiality, please see Enclosure B, *Business Confidentiality Claims/Disclosure of Your Response to EPA Contractors and Grantees*. You must clearly mark such information by either stamping or using any other form of notice that such information is a trade secret, proprietary, or company confidential. To ensure to the greatest extent that your intent is clear, we recommend that you mark as confidential each page containing such claimed information.
2. Please provide a separate, detailed narrative response to each question, and to each subpart of each question, set forth in this Information Request. If you fail to provide a detailed response, EPA may deem your response to be insufficient and thus a failure to comply with this Information Request, which may subject you to penalties.
3. Precede each response with the number of the question or subpart of the question to which it corresponds. For each document or group of documents produced in response to this Information Request, indicate the number of the specific question or subpart of the question to which the document(s) responds.
4. Should you find at any time after submission of your response that any portion of the submitted information is false, misrepresents the truth or is incomplete, you must notify EPA of this fact and provide EPA with a corrected written response.
5. Any terms that are used in this Information Request and/or its Enclosures that are defined in CERCLA shall have the meaning set forth in CERCLA. Definitions of several such terms are set forth in Enclosure D, *Definitions*, for your convenience. Also, several additional terms not defined in CERCLA are defined in Enclosure D. Those terms shall have the meaning set forth in Enclosure D any time such terms are used in this Information Request and/or its Enclosures.

Enclosure F

QUESTIONS

1. State the name of your company, its mailing address, and telephone number. Further identify:
 - a. The dates and states of incorporation of your company;
 - b. The date and original state of incorporation of your company; and
 - c. The parent corporation of your company, if any, and all subsidiaries or other affiliated entities.
2. What is the current nature of the business or activity conducted at your establishment(s) in the Philadelphia, Pennsylvania area? What was the nature of your business or activity between 1958 and 1976? Please describe in detail. If the nature of your business or activity changed from the period of 1958 to 1976 to the present, please provide a detailed explanation of the changes to date.
3. Identify all persons currently or formerly employed by your establishment(s) who have or may have personal knowledge of your operations and waste disposal practices between 1958 and 1976 at your facilities in the Philadelphia, Pennsylvania area. For each such person, state that person's employer, job title, dates of employment, current address, and telephone number. If the current telephone number or address is not available, provide the last known telephone number or last known address of such person.
4. Identify the owners and operators of your establishment(s) in the Philadelphia, Pennsylvania area from 1958 to the present. For each owner and operator further provide:
 - a. The dates of their operation;
 - b. The nature of their operation; and
 - c. All information or documents relating to the handling and/or generation, storage, treatment, recycling, formulation, disposal, or transportation of any hazardous substance, hazardous waste, pollutant, contaminant, or other waste during the period in which they were operating the establishment(s).
5. Describe the types of documents generated or maintained by your establishment(s) in the Philadelphia, Pennsylvania area concerning the handling and/or generation, storage, treatment, transportation, recycling, formulation, or disposal of any hazardous substance, hazardous waste, pollutant, contaminant or other waste between 1958 and 1976.
 - a. Provide a description of the information included in each type of document and

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identify the person who was/is the custodian of the documents;

- b. Describe any permits or permit applications and any correspondence between your company and/or establishment(s), and any regulatory agencies regarding the transportation and disposal of such wastes; and
 - c. Describe any contracts or correspondence between your company and/or establishment(s) and any other company or entity regarding the transportation and disposal of such wastes.
6. Identify every hazardous substance used, generated, purchased, stored, or otherwise handled at your establishment(s) in the Philadelphia, Pennsylvania area between 1958 and 1976. Provide chemical analyses and Material Safety Data Sheets ("MSDS"). With respect to each such hazardous substance, further identify:
- a. The process(es) in which each hazardous substance was used, generated, purchased, stored, or otherwise handled;
 - b. The chemical composition, characteristics, and physical state (solid, liquid, or gas) of each such hazardous substance;
 - c. The annual quantity of each such hazardous substance used, generated, purchased, stored, or otherwise handled;
 - d. The beginning and ending dates of the period(s) during which such hazardous substance was used, generated, purchased, stored, or otherwise handled;
 - e. The types and sizes of containers in which these substances were transported and stored; and
 - f. The persons or companies that supplied each such hazardous substance to your company.
7. Identify all by-products and wastes generated, stored, transported, treated, disposed of, released, or otherwise handled by your establishment(s) in the Philadelphia, Pennsylvania area between 1958 and 1976. With respect to each such by-product and waste identified, further provide:
- a. The process(es) in which each such by-product and waste was generated, stored, transported, treated, disposed of, released, or otherwise handled;
 - b. The chemical composition, characteristics, and physical state (solid, liquid, or gas) of each such by-product or waste;
 - c. The annual quantities of each such by-product and waste generated, stored, transported, treated, disposed of, released, or otherwise handled;

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- d. The types, sizes, and numbers of containers used to treat, store, or dispose of each such by-product or waste;
 - e. The name of the individual(s) and/or company(ies) that disposed of or treated each such by-product or waste; and
 - f. The location and method of treatment and/or disposal of each such by-product or waste.
8. Did your company ever contract with, or make arrangements with Clearview, Folcroft, Folcroft Annex, Eastern Industrial, Tri-County Hauling, S. Buckly Trash Hauling, Barratt Rupurt, McCloskey Engineering, ABM Disposal Services, Marvin Jonas, Jonas Waste Removal, Paolino Company, Schiavo Bros., Inc. and/or any other company or municipality to remove or transport material from your establishment(s) in the Philadelphia, Pennsylvania area between 1958 and 1976 for disposal? If so, for each transaction identified above, please identify:
- a. The person with whom you made such a contract or arrangement;
 - b. The date(s) on which or time period during which such material was removed or transported for disposal;
 - c. The nature of such material, including the chemical content, characteristics, and physical state (i.e., liquid, solid, or gas);
 - d. The annual quantity (number of loads, gallons, drums) of such material;
 - e. The manner in which such material was containerized for shipment or disposal;
 - f. The location to which such material was transported for disposal;
 - g. The person(s) who selected the location to which such material was transported for disposal;
 - h. The individuals employed with any transporter identified (including truck drivers, dispatchers, managers, etc.) with whom your establishment dealt concerning removal or transportation of such material; and
 - i. Any billing information and documents (invoices, trip tickets, manifests, etc.) in your possession regarding arrangements made to remove or transport such material.
9. Provide the names, titles, areas of responsibility, addresses, and telephone numbers of all persons who, between 1958 and 1976, may have:
- a. Disposed of or treated materials at Clearview, Folcroft and Folcroft Annex or other areas of the Site;

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- b. Arranged for the disposal or treatment of materials at Clearview, Folcroft and Folcroft Annex or other areas of the Site; and/or
 - c. Arranged for the transportation of materials to Clearview, Folcroft and Folcroft Annex or other areas of the Site (either directly or through transshipment points) for disposal or treatment.
- 10. For every instance in which your establishment(s) disposed of or treated material at Clearview, Folcroft and Folcroft Annex or other areas of the Site, or arranged for the disposal or treatment of material at the Site, identify:
 - a. The date(s) on which such material was disposed of or treated at the Site;
 - b. The nature of such material, including the chemical content, characteristics, and physical state (i.e., liquid, solid, or gas);
 - c. The annual quantity (number of loads, gallons, drums) of such material;
 - d. The specific location on the Site where such material was disposed of or treated; and
 - e. Any billing information and documents (invoices, trip tickets, manifests, etc.) in your company's or establishment's(s') possession regarding arrangements made to dispose of or treat such material at the Site.
- 11. Did your establishment(s), or any other company or individual ever spill or cause a release of any chemicals, hazardous substances, and/or hazardous waste, and/or non-hazardous solid waste on any portion of Clearview, Folcroft and Folcroft Annex or any other portion of the Site? If so, identify the following:
 - a. The date(s) the spill(s)/release(s) occurred;
 - b. The composition (i.e., chemical analysis) of the materials which were spilled/released;
 - c. The response made by you or on your behalf with respect to the spill(s)/release(s):
and
 - d. The packaging, transportation, and final disposition of the materials which were spilled/released.
- 12. Please identify individuals employed by your establishment(s) who were responsible for arranging for the removal and disposal of wastes, and individuals who were responsible for payments, payment approvals, and record keeping concerning such waste removal transactions at your Philadelphia, Pennsylvania area establishment(s) between 1958 and

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1976. Provide current or last known addresses and telephone numbers where they may be reached. If these individuals are the same persons identified by your answer to question 3, so indicate.

13. Did you or any person or entity on your behalf ever conduct any environmental assessments or investigations relating to contamination at Clearview, Folcroft and Folcroft Annex or any other areas of the Site? If so, please provide all documents pertaining to such assessments or investigations.
14. If you have any information about other parties who may have information which may assist the EPA in its investigation of the Site, including Clearview, Folcroft and Folcroft Annex, or who may be responsible for the generation of, transportation to, or release of contamination at the Site, please provide such information. The information you provide in response to this request should include the party's name, address, telephone number, type of business, and the reasons why you believe the party may have contributed to the contamination at the Site or may have information regarding the Site.
15. Representative of your establishment(s):
 - a. Identify the person(s) answering these questions on behalf of your establishment(s), including full name, mailing address, business telephone number, and relationship to the company.
 - b. Provide the name, title, current address, and telephone number of the individual representing your establishment(s) to whom future correspondence or telephone calls should be directed.
16. If any of the documents solicited in this information request are no longer available, please indicate the reason why they are no longer available. If the records were destroyed, provide us with the following:
 - a. Your document retention policy;
 - b. A description of how the records were/are destroyed (burned, archived, trashed, etc.) and the approximate date of destruction;
 - c. A description of the type of information that would have been contained in the documents; and
 - d. The name, job title, and most current address known to you of the person(s) who would have produced these documents; the person(s) who would have been responsible for the retention of these documents; and the person(s) who would have been responsible for the destruction of these documents.

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